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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,419	09/25/2001	Richard M. Ratliff	023895/259077	6914
826 7590 01/31/2008 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER AGWUMEZIE, CHARLES C	
			ART UNIT 3621	PAPER NUMBER
			MAIL DATE 01/31/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/961,419

Applicant(s)

RATLIFF ET AL.

Examiner

CHARLES C. AGWUMEZIE

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 16, 17, 19-24, 26, 29-82 and 84-90 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-17, 19-24, 26-26, 29-82 and 84-90 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/8/02, 5/28/04, 7/5/05, 10/19/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgments

1. In view of the Applicants' Notice of Appeal and Pre-Appeal conference held on November 1, 2007, **PROSECUTION** is hereby **REOPENED**.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 8-14, 16-17, 19-24, 26-27, 29-37, 38-82, 84-87, and 88-90, are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodwin III et al European Patent Application Publication No. EP 0 973 112 A2 in view of either Rosenberg U.S. Patent Application No. 2002/0184088 A1 or Eglen et al U.S. Patent Application Publication No. 2007/0250400 A1.

As per **claims 1, 11, 31, and 59**, Goodwin et al discloses a method for providing price information for an item capable of being sold at a plurality of different predefined price levels that each have a respective availability associated therewith, comprising the steps of:

receiving a request for price information associated with at least one item (figs. 4 and 5; ...obtains competitive price data...);

obtaining database results from a database responsive to the request (0034; 0044; ...reads the price of the item from competitive price data file...);

modifying at least one entry in the database results to reflect a more competitive price when compared to another entry in the database results (see figs. 4 and 5; 0032; ...control software determines whether the PLU price should be adjusted for the item...) comprising increasing availability of the at least one entry at a predefined price level having the more competitive price and

providing the database results to a consumer after completing the modifying step (figs. 4 and 5; 0032; 0044).

What Goodwin does not explicitly disclose is increasing availability of the at least one item entry at a predefined price level having the more competitive price. Goodwin however discloses that the price adjustment is based on predetermined rules and/or competitive market conditions.

Rosenberg et al discloses a method comprising increasing availability of the at least one item entry at a predefined price level having the more competitive price (0007, which discloses that an ever increasing supply of the commodity means that the price of that commodity will continue to decrease...). Alternatively Eglen et al discloses a method comprising increasing availability of the at least one item entry at a predefined price level having the more competitive price (0134, which discloses that the file servers 210 call increment demand servlet 3044 to increase the quantity demand for an item in

the media cache 3016; 0107, which discloses that the dynamic price modifier is some measure of change in demand for one or more item being priced, ... generally the dynamic price modifier increases the price of an item when demand for that item increases and reduces the price of an item when the demand for the item decreases...)

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the method comprising increasing availability of the at least one item entry at a predefined price level having the more competitive price in view of the teachings of either Rosenberg or Eglen et al in order to remain competitive.

As per claims 2, 12, 22, 32, 67 and 82, Goodwin further discloses the method, wherein the at least one entry is modified in real time (0032).

As per claims 3, 13, 23, and 33, Goodwin et al further discloses the method, wherein the at least one entry is modified based on recently obtained information stored in cache (0032).

As per claims 4, 14, 24, and 34, Goodwin et al further discloses the method, wherein the at least one entry is modified based on information obtained through a batch process (fig. 3).

As per claims 5, 35, and 68, Goodwin et al failed to explicitly disclose the

method, wherein at least one entry is modified by combining a price and a non-monetary incentive to produce a more competitive price.

Eglen et al discloses the method, wherein the database results are modified by combining a price and a non-monetary incentive to produce the more competitive price (0050;coupons tickets...).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the method wherein the database results are modified by combining a price and a non-monetary incentive to produce the more competitive price in view of the teachings of Eglen et al in order to attract customers.

As per **claims 6, 16, 26, 36, 69, and 84**, Goodwin et al further discloses the method, wherein at least one entry is modified using at least one of increasing the price, decreasing the price, and modifying the price, based on a level of service provided, to produce the more competitive price (0039; 0045).

As per **claims 7,17, 27, 37, 47, 55, 69, and 85**, Goodwin et al and Boushy et al failed to explicitly disclose the method, wherein the database results are modified by changing the availability of a class fare to produce the more competitive price.

Eglen et al discloses the method, wherein the database results are modified by changing the availability of a class fare to produce the more competitive price (0118).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the method wherein the database results are modified by changing the availability of a class fare to produce the more competitive price in view of the teachings of Eglen et al in order to remain competitive.

As per claims 8, and 38, Goodwin et al further discloses the method, wherein at least one entry is modified by marking up the at least one entry, while maintaining a competitive price (0039).

As per claims 9, 19, 29, and 39, Goodwin et al further discloses the method, wherein at least one entry is modified by submitting in real time a second request to a second database and receiving information to produce the more competitive price (figs. 4 and 5).

As per claims 10, 20, 30, and 40, Goodwin et al further discloses the method, wherein the received information from the second database is based on information received with the second request (see figs. 4 and 5).

As per claim 21 and 74, Goodwin et al discloses a method for providing information, comprising:

receiving a request for information associated with at least one item (figs. 4 and 5; ...obtains competitive price data...);

obtaining database results from a database responsive to the request (0034; 0044; ...reads the price of the item from competitive price data file...);

modifying at least one entry in the database results to reflect a more competitive price when compared to another entry in the database results (see figs. 4 and 5; 0032; ...control software determines whether the PLU price should be adjusted for the item...) based at least partially on combining a price and a non-monetary incentive to produce the more competitive position, modifying a price based on the level of service provided to produce the more competitive position, or marking up the at least one entry while maintaining a competitive position and

providing the database results to a consumer after completing the modifying step (figs. 4 and 5; 0032; 0044).

What Goodwin does not explicitly disclose is based at least partially on combining a price and a non-monetary incentive to produce the more competitive position, modifying a price based on the level of service provided to produce the more competitive position, or marking up the at least one entry while maintaining a competitive position

Eglen et al discloses a method for providing information comprising:

modifying based at least partially on combining a price and a non-monetary incentive to produce the more competitive position, modifying a price based on the level of service provided to produce the more competitive position, or marking up the at least

one entry while maintaining a competitive position (0107, which discloses that the dynamic price modifier is some measure of change in demand for one or more item being priced, ... generally the dynamic price modifier increases the price of an item when demand for that item increases and reduces the price of an item when the demand for the item decreases...; 0145, which discloses that coupon can be redeemed ...).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the method of modifying based at least partially on combining a price and a non-monetary incentive to produce the more competitive position, modifying a price based on the level of service provided to produce the more competitive position, or marking up the at least one entry while maintaining a competitive position in view of the teachings of Eglen et al in order to remain competitive and/or attract more customers.

As per **claims 41, and 49**, Goodwin et al discloses a network node that provides information for an item capable of being sold at a plurality of different predefined price levels that each have a respective availability associated therewith, comprising:

a receiving device for receiving a request for information associated with an item (figs. 1, 4 and 5);

a database, accessible by the device, that provides results responsive to the request (fig. 1; 0034; 0044);

a rule processor that modifies at least one entry in the results to reflect a more competitive position when compared to another entry in the results (see figs. 4 and 5; 0032; 0044) comprising increasing availability of the at least one entry at a predefined price level having the more competitive price prior to providing the result to a consumer.

What Goodwin does not explicitly disclose is comprising increasing availability of the at least one entry at a predefined price level having the more competitive price prior to providing the result to a consumer. Goodwin however discloses that the price adjustment is based on predetermined rules and/or competitive market conditions.

Rosenberg et al discloses a method comprising increasing availability of the at least one item entry at a predefined price level having the more competitive price prior to providing the result to a consumer (0007, which discloses that an ever increasing supply of the commodity means that the price of that commodity will continue to decrease...). Alternatively Eglen et al discloses a method comprising increasing availability of the at least one item entry at a predefined price level having the more competitive price (0134, which discloses that the file servers 210 call increment demand servlet 3044 to increase the quantity demand for an item in the media cache 3016; 0107, which discloses that the dynamic price modifier is some measure of change in demand for one or more item being priced, ... generally the dynamic price modifier increases the price of an item when demand for that item increases and reduces the price of an item when the demand for the item decreases...)

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the

method comprising increasing availability of the at least one item entry at a predefined price level having the more competitive price prior to providing the result to a consumer in view of the teachings of either Rosenberg or Eglen et al in order to remain competitive.

As per **claims 42, and 50**, Goodwin et al further discloses the network node, wherein the rule processor modifies the at least one entry in real time (0032).

As per **claims 43, and 51**, Goodwin et al further discloses the network node, wherein the rule processor modifies the at least one entry based on recently obtained and stored information (0032).

As per **claims 44, and 52**, Goodwin et al further discloses the network node, wherein the rule processor modifies the at least one entry based on information obtained through a batch process (fig. 3).

As per **claims 45, and 53**, Goodwin et al failed to explicitly disclose the network node, wherein the rule processor modifies the at least one entry by combining a price and a non-monetary incentive to produce the more competitive position.

Eglen et al discloses the method, wherein the database results are modified by combining a price and a non-monetary incentive to produce the more competitive price (0145).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the method wherein the database results are modified by combining a price and a non-monetary incentive to produce the more competitive price in view of the teachings of Eglen et al in order to attract customers.

As per claims 46, and 54, Goodwin et al further discloses the network node, wherein the rule processor modifies the at least one entry by using at least one of increasing a price, decreasing the price, and modifying the price, based on a level of service provided, to produce a more competitive position (0039; 0045).

As per claims 48, and 56, Goodwin et al further discloses the network node, wherein the rule processor is located in a second network node and modifying the at least one entry comprises submitting in real time the request to the rule processor and receiving information with the more competitive position (0039).

As per claim 57, Goodwin et al further discloses the system, wherein the means for modifying the at least one entry modifies the at least one entry by submitting in real time a second request to a second database and receiving information to produce the more competitive position (see figs. 4 and 5).

As per claim 58, Goodwin et al further discloses the system, wherein the

received information from the second database is based on information received with the second request (see figs. 4 and 5).

As per **claims 60 and 75**, Goodwin et al further discloses the method, wherein modifying the at least one entry includes providing the at least one entry at cost to reflect a more competitive position (0039).

As per **claims 62 and 77**, Goodwin et al further discloses the method, wherein modifying the at least one entry includes providing the more competitive position for the at least one entry in exchange for a non-monetary incentive (fig. 5).

As per **claims 63 and 78**, Goodwin et al further discloses the method, wherein modifying the at least one entry includes applying a set of supplier rules to the at least one entry to determine a price associated with the at least one entry (figs. 4 and 5).

As per **claims 64 and 79**, Goodwin et al further discloses the method, wherein applying the set of supplier rules includes increasing the price associated with the at least one entry to match at least one of the other entries in the results (figs. 4 and 5).

As per **claims 65 and 80**, Goodwin et al further discloses the method, wherein applying the set of supplier rules includes providing the more competitive position, while maintaining a minimum price for the at least one entry (see figs. 4 and 5).

As per claims 66 and 81, Goodwin et al further discloses the method, wherein applying the set of supplier rules includes providing the more competitive position, while maintaining a premium value above at least one of the other entries in the results (see figs. 4 and 5).

As per claims 71, 72, 76, 86 and 87, Goodwin et al failed to explicitly disclose a method wherein modifying the at least one entry further comprises sharing revenue derived from a sale of the at least one entry between an agent and a supplier of the item.

Goodwin however is directed to a method of managing competitive price information which are higher than competitive prices and dynamically changing or modifying the prices to obtain a competitive pricing. The idea of airline/Agent relationship and revenue sharing is old, conventional and notoriously well known in the industry.

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the method wherein modifying the at least one entry further comprises sharing revenue derived from a sale of the at least one entry between an agent and a supplier of the item as commonly practiced in the industry.

As per claim 73, Goodwin et al further discloses the method, wherein marking up

the at least one entry above the supplier provided price includes marking up the supplier provided price to be one of equal and less than other entries in the results (figs. 4 and 5; 0039).

As per claim 88, Goodwin et al further discloses the network node, wherein the means for modifying the at least one entry marks up the at least one entry by increasing the supplier provided price to be one of equal and less than other entries in the results (0039).

As per claims 89 and 90, Goodwin et al failed to explicitly disclose the method wherein the database entries for the at least one item at a plurality of prices, and wherein modifying at least one entry in the database comprises making the at least one item that was previously available at the less competitive price to be available at the more competitive price

Eglen et al discloses the method wherein the database entries for the at least one item at a plurality of prices, and wherein modifying at least one entry in the database comprises making the at least one item that was previously available at the less competitive price to be available at the more competitive price (0107, which discloses that the dynamic price modifier is some measure of change in demand for one or more item being priced, ... generally the dynamic price modifier increases the price of an item when demand for that item increases and reduces the price of an item when the demand for the item decreases...).

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Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the method wherein the database entries for the at least one item at a plurality of prices, and wherein modifying at least one entry in the database comprises making the at least one item that was previously available at the less competitive price to be available at the more competitive price in view of the teachings of Eglen et al in order to remain competitive.

Response to Arguments

3. Applicant's arguments with respect to claim 1-14, 16-17, 19-24, 26-27, 29-82 and 84-90 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The reference cited to Beaton et al U.S. Patent No. 6,292,786 is a document considered relevant to the claimed invention.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

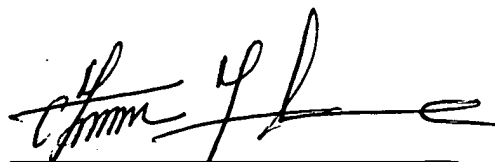
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles C. Agwumezie whose number is **(571) 272-6838**. The examiner can normally be reached on Monday – Friday 8:00 am – 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on **(571) 272 – 6779**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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Charlie Lion Agwumezie
Patent Examiner
Art Unit 3621



ANDREW J. FISCHER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

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January 16, 2008